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JUL 08 2004

OFFICE OF PETITIONS

In re Application of :
Frank A. Howell : DECISION GRANTING
Application No. 10/736,881 : PETITION
Filed: 16 December, 2003 :
Atty Dckt No. 7041(CIP) :

This is a decision on the petition filed on 2 June, 2004, requesting that the above-identified application, including six (6) sheets of drawings, be accorded a filing date of 16 December, 2003.

The petition is GRANTED.

On 16 December, 2003, the application was filed.

On 18 May, 2004, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application stating that the application had not been accorded a filing date because the application had been deposited without drawings.

In response, on 2 June, 2004, the present petition was filed. Petitioner argues that six (6) sheets of drawings were filed with the other application papers on 16 December, 2003, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the petition. The postcard receipt shows an Office date stamp of 16 December, 2003, and the above-identified application number, and acknowledges receipt of, *inter alia*, "Pgs: 18 / Spec: 7, Claims: 3 / Drwgs. :6 ..." The postcard also identifies the application by inventor's name, invention title, and docket number.

Upon review of the record, no sheets of drawings deposited on 16 December, 2003, have been located among the application papers. However, the evidence is convincing that the application papers deposited on 16 December, 2003, included six (6) sheets of

drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including six (6) sheets of drawings, was complete on filing and entitled to a filing date of 16 December, 2003.

The application will be processed and examined using the copy of the six (6) sheets of drawings supplied on 2 June, 2004. The duplicate copy of the other application papers filed on 2 June, 2004, will not be used for processing or examination, but will be retained in the application file.

As petitioner has shown that the present petition was due to Office error, the petition fee of \$130.00 will be credited to counsel's deposit account, No. 19-0079.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 16 December, 2003, using the application papers filed on that date and the six (6) sheets of drawings filed with the present petition, and for an indication in Office records that six (6) sheets of drawings were present on filing.

Telephone inquiries should be directed to the undersigned at 703.308.6918.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions